TESTIMONY

OF

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BEFORE THE

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COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

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Mr. Chairman and members of the Subcommittee, it is an honor to appear before you today to discuss Section 706 of the Telecommunications Act of l996 and the critical need for wider deployment of advanced telecommunications services to customers in the U S WEST territory. My remarks will emphasize the following points:

l. Congress passed Section 706 of the Telecommunications Act to ensure that "all Americans" have access to advanced telecommunications technologies. By its plain words, Section 706 directs the FCC to lift any regulatory barrier that is preventing companies from investing in and deploying high-speed data technologies to the public.

2. The current providers of advanced data services are serving urban and business customers exclusively and are ignoring smaller and rural communities altogether. Rural Americans do not have access to an adequate data communications infrastructure and are at real risk of becoming technological "have nots."

3. U S WEST serves a larger part of the West and Midwest and a greater number

of small and rural communities than any other carrier. It has the largest investment in communications infrastructure in its territory and it is uniquely positioned to bring the benefits of the Information Age to the currently underserved regions of the Nation. But regulatory barriers now prevent U S WEST from doing so. U S WEST is not allowed to build desperately needed data backbone in its territory because these networks are, by nature, long- distance facilities. And rules designed for the old telephone world discourage U S WEST from investing in new high-speed data technologies by requiring the company to turn all of its innovations over to its rivals.

3. U S WEST has petitioned the FCC to use the power Congress gave it to lift these regulatory barriers. Doing so will carry out Congress' intent to ensure that all Americans, not just those in big cities, receive the economic and educational benefits of high-speed data services. Consumer groups, educational institutions, rural legislators, and economic development authorities all support U S WEST's petition. The opposition is coming from carriers who are trying to keep U S WEST out of their markets, yet are refusing to serve the very communities who need these services the most

U S WEST offers a full range of communication services including traditional, circuit switched telephone services, wireless communication services and advanced data networking services. Many communities and many Americans currently lack high speed Internet access, especially in U S WEST's territory. These communities and Americans are at risk of being relegated to information *have nots* in the 21st century.

U S WEST Communications' territory covers a 14 state area in the Western and Midwest regions of our nation. The following facts about the U S WEST region are striking:

1. We serve the largest territory of any RBOC - 307,000 square miles, or nearly three times the RBOC average - yet we are the smallest in terms of the number of access lines. Additionally, our household density is less than half the RBOC average.
2. Our top five Metropolitan Statistical Areas (MSAs) - Minneapolis, Phoenix, Seattle, Denver, and Portland - constitute only 33.3 percent of the total population within our territory. This compares with an RBOC average of nearly 41 percent. At least two RBOCs have about 60 percent of their populations crowded into their top five MSAs.
3. Based on 1995 population estimates from the U.S. Census bureau, Minneapolis - our largest MSA with about 2.7 million people - would be only the third-largest MSA in every other RBOC territory but one.

Less than 45 percent of our revenues are derived from our top five MSAs.

All of these factors make U S WEST's territory relatively less attractive for new facilities based competitors. U S WEST's position in its region makes us the most likely company to deploy advanced telecommunications and information services on a widespread basis to rural America, as Congress intended. U S WEST is by far the largest local exchange carrier in its fourteen states, and unlike competitors such as AT&T who can pick and choose which customers they want to serve, we are required by law to serve virtually every residential and business customer in our service areas. In l997, U S WEST invested $1.9 billion of capital to construct, improve, upgrade and repair the telephone infrastructure within our region. Moreover, we are committed to deploying advanced data networking and transmission services as broadly as possible throughout its region, and our roll-out of these services has been the most aggressive of any local exchange carrier in the nation.

Why is it important that everyone have access to these new services? Look at how the process of information gathering has changed. Information has historically resided in

written materials - whether letters, books, or periodicals. The new information age has created a new medium to receive, send and review such material - the information highway, known as the Internet. U S WEST supports this evolution and believes that it is critical to the continued economic growth and educational advancement of the nation. To be meaningful, however, access to this new medium must be extended to many more people and in more diverse locations than it is today. The Digital Subscriber Line technology, known generically as "xDSL," which U S WEST is deploying in portions of its region is the ideal telecommunications vehicle to insure broader deployment of advanced telecommunications services, including access to high speed data transmission and the Internet.

Digital subscriber line technologies use customers' existing copper loops to provide high-speed data transmission without interfering with the carriage of voice. U S WEST currently offers one form of this technology - rate-adaptive asymmetric digital subscriber lines, or "RADSL" - under the MegaBit Services brand name. A MegaBit customer uses a special modem that creates a data channel on the loop apart from the existing voice channel. The customer's loop is connected to a second modem in the central office. The second modem sits in a shelf called a digital subscriber line access multiplexer (or "DSLAM") that directs the voice traffic to the ordinary circuit-switched network and routes the data channel to a packet-switched network. In the packet-switched network, data is routed between ATM or frame relay switches connected to each other by private lines, and then to a business site or to an ISP for routing to the Internet. With MegaBit Service, a customer's voice channel always remains operational even if the

data channel is in use.

The existing telephone infrastructure is fully capable of supporting this next generation of technology - DSL - which will enable data to travel at speeds that are up to 150 times faster than the average dial up modem in today's state of the art personal computer. This means that the common experience of waiting at your computer for the screen to paint can be an annoyance of the past. Deploying this new technology, however, is not without significant investment and therefore risk to U S WEST, particularly outside the large urban areas in our region.

U S WEST believes that it is good public policy and sound business to increase the number of customers who have access to these new high speed data services. The Internet contains a wealth of information and resources for everyone - including students, professionals, retirees and the homebound. Further, high speed data transmission is the foundation for extending crucial services to people outside major metropolitan areas. For example, access to high speed data services will enable a doctor doing a residency in Alamosa, CO to consult with doctors at University Hospital in Denver, resulting in the delivery of excellent and timely medical services. Without this service, a patient would have to travel approximately 230 miles and incur unnecessary expenses and delays in treatment.

U S WEST firmly believes in and wants to deploy these high speed Internet and data services. But rules and regulations say it can not. US WEST is not currently allowed to build a high speed data backbone in its region no matter how desperately one is needed. Such deployment in the U S WEST region requires a very significant investment by the

Company. To make this new investment possible and efficient, we have requested very targeted relief from a few provisions of the Telecommunications Act of 1996 that are acting as barriers to robust deployment. U S WEST simply wants the ability to transport DATA - not voice - across LATA boundaries and not to have to unbundle the non-essential pieces of our data network, or sell these new data services available to competitors.

While others have argued that this investment is not necessary by U S WEST because investments are already being made in the backbone, the inescapable fact remains that investment is not being made in many areas of our territory. For example, Qwest recently announced the launch of its national IP backbone, but it will serve only 20 cities in U S WEST's territory and it will totally miss 5 states - or 35 percent of our region. Similarly, IXC last week announced its launch of a national IP backbone, but again it misses the majority of the US WEST territory and touches only two states in our 14 state region.

U S WEST strongly supports and welcomes competitors to provide services it its subscribers throughout the region. For example, U S WEST has already negotiated a significant number of interconnection agreements with other carriers and has more under negotiation. But the critical fact remains that these competitors are targeting the metropolitan areas and large businesses and are not seeking to deploy advanced services to anyone outside large metropolitan areas. Granting U S WEST's petition for relief under Section 706 will go a long way toward fulfilling Congress' desire for widespread deployment of advanced telecommunications services . U S WEST has made

by far the largest investment in telecommunications infrastructure of any carrier in its largely rural region — infrastructure that serves residential as well as business customers — and it is currently rolling out advanced high-transmission copper-loop technologies such as asymmetric digital subscriber lines (or "ADSL") on an aggressive schedule in forty three cities throughout its fourteen states. Outside that region, where the company is free from regulatory barriers that constrain its lines of business, U S WEST has demonstrated its capability to provide customers with a full range of advanced communications, networking, and information services, and its determination to compete for the opportunity to do so.

U S WEST has requested that the FCC grant it the ability to transport data traffic across LATA boundaries. Section 706 of the Telecommunications Act of 1996 clearly gives the FCC that power. Section 706 directs both the FCC and state commissions to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans," and to do so "by utilizing, in a manner consistent with the public interest, convenience and necessity . . . regulatory forbearance … or other regulating methods that remove barriers to infrastructure investment. " Section 706(a) and (b) constitute an express grant of authority to the Commission and a statutory command to use that authority.

There is nothing in the words of Section 706 limiting which regulatory barriers the FCC is required to remove. Nor does the text of Section 706 contain any limit on the FCC's power to forbear from applying innovation-frustrating regulations, other than that it be exercised in the public interest. On the contrary, Section 706 speaks in broad and

mandatory terms. State and federal regulators "shall" encourage the roll-out of advanced technologies by using regulatory forbearance and removing barriers to investment. And if the FCC finds, after inquiry, that "all Americans" are not receiving access to advanced services and technologies, "it shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment."

The companies trying to keep U S WEST out of their markets cannot point to any actual language in Section 706 that limits the forbearance power Congress gave the FCC or that excuses its duty to exercise it. Instead, they argue that the term "regulatory forbearance" is a coded cross-reference to another, unrelated section of the Act. This other section – Section 10 – allows the FCC to forbear from enforcing rules that the development of competition has made unnecessary. Because this other section is concerned with the development of competition, it (and, by its express terms, it alone) cannot be used to forbear from Section 251 and 271, the market-opening provisions of the Act. But Section 706 serves a wholly different purpose; it addresses whether existing competitors are failing to deliver the advanced services and technologies essential to the Nation's growth and if so, directs the FCC to take appropriate action to facilitate wider deployment of advanced telecommunications services. It makes no sense to ignore the plain language of Section 706 and to frustrate its purpose by importing limitations that appear in an unrelated section of the Act and serve a totally different goal. And we very much doubt that Congress really meant that the FCC was directed to countenance application of any portion of the Communications Act in a manner that actually deprives customers of service.

All U S WEST is seeking , pursuant to the specific terms of the Telecommunications Act, is the ability to increase access to advanced telecommunications services - such as access to the Internet- to make life better for residents in our region. Section 706 is designed for one purpose - to prevent the development of technological "haves" and "have nots" as the Information Age progresses. We want the customers that reside in the less urban portions of our territory to be among the "haves" so they have access to high speed data and the wealth of information that resides on the Internet.

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear today. I look forward to responding to any questions you may have.